In the High Court of Uttaranchal at Nainital.

Criminal Revision No. 991/2001
(Old No. 1302 of 1995)

1. Sri Arif Ahmad S/o Ilahi Bux
2. Ikram
3. Irfan
4. Nabbu alias Hanif …Revisionists.

Vs/

State of UP …Opp.party.

Hon'ble Irshad Hussain, J.

None appear for the revisionists. Heard Sri A. Rab learned A.G.A. and perused the record.

This revision under section 397/401 of the Code of Criminal Procedure was preferred against the judgment dated 9-8-1995 passed by the Additional Sessions Judge, Roorkee in Crl. Appeal No. 55/1993, whereby by modifying the judgment of learned Assistant Sessions Judge passed in Sessions Trial No. 137/1993, the revisionists were acquitted of the charges under sections 325/504 I.P.C. but they were convicted under section 323 I.P.C. and were sentenced to pay a fine of Rs. 300-00 each.

Perusal of the judgment of the Courts below reveal that the occurrence took place at about 3.30 a.m. when Bhura and Mursalin were assaulted when they resisted the diversion of the irrigation channel water at the hands of the accused-revisionists. The F.I.R. of the case was also lodged soon after the occurrence and the injuries of the injured were examined by the Medical Officer Dr. Ajay Kumar (P.W.6) and DR. Arun Kumar (P.W.7). Both the injured Bhura (P.W.3) and Murasalin (P.W.4) have fully corroborated the prosecution case against the revisionist-accused and it was proved that they sustained simple injuries and were rightly held guilty of the offence punishable under section 323 I.P.C. The learned Sessions Judge has taken a very lenient view in awarding the sentence of fine only and therefore there appear to be no miscarriage at all in appreciation of the evidence and in awarding the sentence of fine only against the revisionists.

There being no merit in this revision the same can not therefore be admitted. The revision is therefore dismissed in limine. Consign.

(Irshad Hussain, J.)

Dated: 5-04-2004

ISB